

SEMINOLE TRIBE OF FLORIDA

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18 April 2000

Mr. Fritz Wagener
USEPA Region 4
Planning, Standards and Community Support
61 Forsyth Street SW
Atlanta, GA 30303

Re: Seminole Tribe of Florida Water Quality Standards

Dear Mr. Wagener:

Enclosed please find one copy of the water quality standards applicable to the Brighton and Big Cypress Seminole Indian Reservations. Related documents are posted at <http://www.seminoletribe.com/services/water.shtml> for the benefit of the public, particularly other Tribes developing their own standards. If you would like hard copies of anything else, please do not hesitate to call me at 954-966-6300x1125.

Sincerely,

Rhonda Roff
Permit Coordinator

c: Craig Tepper
Ken Dodge, Esq.
file

SEMINOLE WATER COMMISSION
SEMINOLE TRIBE OF FLORIDA

RULES

WATER QUALITY PROTECTION AND RESTORATION:
RULES TO CARRY OUT
THE FEDERAL CLEAN WATER ACT AND
THE TRIBAL WATER CODE

INCLUDING

WATER QUALITY STANDARDS
FOR THE BIG CYPRESS AND BRIGHTON RESERVATIONS

Authority: In the Tribal Water Code, the Tribal Council of the Seminole Tribe has delegated authority to the Seminole Water Commission to issue rules to carry out the Tribal law. The Tribal Water Code consists of two subtitles: Subtitle A -- Beneficial Use and Conservation of Water Resources; and Subtitle B -- Water Quality Code. The Commission's authority to issue rules is based on both Subtitles. In section 3.5 of Subtitle A of the Tribal Water Code, the Tribal Council authorized the Commission to issue rules establishing procedures to carry out the law. In section 12.3 of Subtitle B of the Tribal Water Code, the Tribal Council authorized the Commission to issue rules to establish both procedural and substantive provisions of law relating to water quality. Each part of these proposed rules includes a note citing the authority on which it is based.

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CHAPTER B. WATER QUALITY

PART 11. GENERAL PROVISIONS FOR WATER QUALITY

SECTION 11.1 INTRODUCTION TO THIS CHAPTER

SECTION 11.2 APPLICABILITY

SECTION 11.3 AUTHORITY

SECTION 11.4 POLICY AND GOALS

SECTION 11.5 DEFINITIONS

[Authority: This Part is based on Subtitle B of the Tribal Water Code, and will take effect upon approval by the Tribal Council.]

SECTION 11.1 INTRODUCTION TO THIS CHAPTER

Chapter B of the Commission's Rules is intended to restore, protect and enhance the quality of the water resources of the Seminole Tribe's Reservations. This Chapter establishes provisions of law to protect these waters for the benefit of present and future generations of the Seminole Tribe, and for the benefit of the general public.

(a) General Provisions. Part 11 of this Chapter includes general provisions, including definitions, that apply throughout this Chapter. In addition, the provisions of Chapter A of the Commission's Rules are generally applicable to the Tribe's water quality program. For example, the definitions for certain terms used in Chapter B are set out in section 1.3 of Chapter A. Similarly, decisions by the Director and Commission are subject to the grievance and appeal procedure set out in Part 3 of Chapter A and the hearings procedures set out in Part 5. Violations of provisions of Chapter B are subject to enforcement under Part 4 of Chapter A.

(b) Water Quality Standards. Part 12 sets out the Tribe's "water quality standards" for the surface waters of the Tribe's Big Cypress and Brighton Reservations. This term is defined in Section 11.5. Water quality standards for the Tribe's four remaining Reservations (Hollywood, Immokalee, Tampa and Fort Pierce Reservations) will be set at a later date. Water quality standards are provisions of substantive law. In the Tribal Water Code, the Tribal Council delegated to the Commission the authority to set these standards. It is a violation of Tribal law for any person to carry on any activity within the Tribe's Reservations that causes a violation of the Tribe's water quality standards. Such activity may also be a violation of Federal law.

(c) Procedure for Certification of Compliance. Some provisions of law contained in this

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Adopted 3/13/98 by the Tribal Council of the Seminole Tribe of Florida
Approved by USEPA on 11/19/98

Chapter are procedural in nature, including the procedure through which persons whose activities may affect surface waters may obtain "certification" that what they plan to do will not violate the Tribe's water quality standards. In order to obtain certification a person may be required to agree to certain conditions recommended by the Department. Failure to obtain certification for any activity covered by this Chapter, or failure to comply with any conditions imposed by the Department, will constitute a violation of this Chapter and will render the violator subject to enforcement action by the Department and the Commission. For any case in which it is not clear whether certification is required for a proposed activity, this Chapter provides a procedure through which a person may voluntarily apply for certification and by doing so, ensure compliance with this Chapter.

(d) Transportation Safety Permit Program. Part 19 of this Chapter establishes a permit program for trucks that haul sewage sludge on the roads of any of the Tribe's Reservations.

[Note: Part 19 was adopted by the Commission on Sept. 21, 1994, and ratified by the Tribal Council by Resolution No. C.-95-95, Jan. 12, 1995.]

SECTION 11.2 APPLICABILITY

This Chapter applies to all surface waters, including wetlands, within the exterior boundaries of the Tribe's Big Cypress and Brighton Reservations. This Chapter applies to all persons, whether or not members of the Tribe, who engage in activities that may affect the quality of reservation surface waters.

SECTION 11.3 AUTHORITY

The Tribe has received authorization to be treated as a State for the purpose of establishing and enforcing water quality standards on its reservations under the authority of Section 518(e) of the Clean Water Act. Accordingly, Section 303 of the Clean Water Act provides the Tribe the authority to adopt and modify water quality standards, which are applicable to control both point and nonpoint sources of pollutants. The Clean Water Act provides the regulatory authorization for point source pollution control. For nonpoint source pollution control, Part 17 of the Tribal Water Code provides the regulatory authority and requires the implementation of a program to address nonpoint source pollution in accord with Part 130 of EPA's regulations (40 CFR 130). Further, the Tribal Council has delegated to the Commission the authority to issue the rules contained in this Chapter. Specifically, Section 12.1 of the Tribal Water Quality Code (Subtitle B of the Tribal Water Code) delegates authority to the Commission, and Section 12.3 of the Tribal Water Quality Code directs the Commission to issue these rules.

SECTION 11.4 POLICY AND GOALS

(a) National Goals. The Tribal Council has endorsed the Congressional declaration of goals and policy in the Clean Water Act (33 U.S.C. § 1251), in particular:

- (1) the national goal that the discharge of pollutants into navigable waters be eliminated;
- (2) the interim national goal of water quality that provides for the protection and propagation of fish, shellfish and wildlife and provides for recreation in and on the water (commonly known as the goal of "fishable-swimmable" water quality);
- (3) the national policy that the discharge of toxic pollutants in toxic amounts be prohibited;
- (4) the national policy that programs for the control of nonpoint sources of pollution be developed and implemented in an expeditious manner so that the goals of the Clean Water Act can be met through the control of both point and nonpoint sources of pollution.

(b) Tribal Policies. In addition to the National goals and policy, the Tribal Council has declared the following tribal water quality policies:

- (1) It is the policy of the Seminole Tribe to protect the quality of the surface waters and groundwater on the Reservations in order to support the efforts of the Tribe to pursue economic development, because economic development and environmental protection cannot be pursued in isolation but, rather, are necessarily interrelated.
- (2) It is the policy of the Seminole Tribe to maintain water quality for the conservation of the habitat of culturally important fish and wildlife and for the conservation of culturally important plant life, in order to protect the right of each member of the Tribe to carry on hunting, fishing and other traditional Seminole cultural practices.

(3) It is the policy of the Seminole Tribe to prohibit the degradation of groundwater, because the quality of groundwater is important for many purposes, including human consumption, and because restoring the quality of groundwater after it has been contaminated is both costly and technically difficult.

(4) It is the policy of the Seminole Tribe to ensure that the functions and values of wetlands will be protected because wetlands provide a variety of environmental benefits, including wildlife habitat and recharge of groundwater. When any activities that are subject to these rules may result in adverse impacts on wetlands, such impacts will be considered fully prior to allowing the activities to proceed. Any such adverse impacts should be avoided if practicable, and, where avoidance is not practicable, appropriate mitigation measures shall be planned and implemented.

(5) It is the policy of the Seminole Tribe that all tribal activities relating to water quality be consistent with the rights, entitlements and obligations of the Tribe under the Water Rights Compact with the State of Florida and the South Florida Water Management District.

(c) Purposes. This Chapter of the Commission's rules is intended to carry out the purposes of the Tribal Water Quality Code, which are:

(1) to protect the health and welfare of members of the Seminole Tribe and others who reside or conduct business within the Tribe's Reservations;

(2) to provide appropriate protection for aquatic life and wildlife within the Tribe's Reservations;

(3) to protect the rights of tribal members to carry on traditional cultural activities and to protect the wild plants and wildlife and other aspects of the natural environment that are important for carrying on traditional cultural activities;

(4) to ensure that development activities that may be carried out by the Tribe to enhance the general welfare of Reservation communities, or that may be carried out by private persons pursuant to the Tribal Land Use Code, will not result in violations of Tribal water quality standards.

SECTION 11.5 DEFINITIONS

The term *the Act* means the *Clean Water Act (CWA)*, as amended, 33 U.S.C. 1251 *et seq.*, which is also known as the Federal Water Pollution Control Act (FWPCA).

The term *acute* refers to a stimulus severe enough to rapidly induce an effect; in aquatic toxicity tests, an effect observed in 96-hours or less is typically considered acute. When referring to aquatic toxicology or human health, an acute affect is not always measured in terms of lethality.

The term *aquatic community* means an association of interacting populations of aquatic organisms in a given water body or habitat.

The term *background conditions* means the biological, chemical, and physical conditions of a waterbody, upstream from the point or nonpoint source discharge under consideration.

The term *best management practice (BMP)* means methods, measures or practices selected by an agency to meet its nonpoint source control needs. BMPs include but are not limited to structural and nonstructural controls and operation and maintenance procedures. BMPs can be applied before, during and after pollution-producing activities to reduce or eliminate the introduction of pollutants into receiving waters.

The term *biological integrity* means the condition of the aquatic community inhabiting unimpaired waterbodies of a specified habitat as measured by community structure and function.

The term *ceremonial and religious use* means a particular use of a waterbody by members of the Seminole Tribe that because of its unique diverse plant and wildlife has a historic, cultural or religious significance.

The term *chronic* means a stimulus that lingers or continues for a relatively long period of time, often one-tenth of the life span or more. Chronic should be considered a relative term depending on the life span of an organism. The measurement of a chronic effect can be reduced growth, reduced reproduction, etc., in addition to lethality.

The term *criteria* means elements of water quality standards, expressed as constituent concentrations, levels, or narrative statements, representing a quality of water that supports a particular use. When criteria are met, water quality will generally protect the designated use.

The term *designated uses* means those uses specified in water quality standards for each waterbody or segment whether or not they are being attained.

The terms *discharge of a pollutant* and *discharge of pollutants* each mean any addition of any pollutant to navigable waters from any point source.

[Note: The EPA definition includes language excluding discharges from vessels into waters of the contiguous zone or the ocean. Since no such waters are within the jurisdiction of the Tribe, that language has been omitted from the definition in this section.]

The term *diversity* means the number and abundance of biological taxa in a specified location.

The term *effluent limitation* means any restriction imposed by the Director on quantities, discharge rates, and concentrations of "pollutants" which are "discharged" from "point sources" into "waters of the United States".

[Note: The EPA definition includes language regarding discharges into waters of the contiguous zone or the ocean. Since no such waters are within the jurisdiction of the Tribe, that language has been omitted from the definition in this section.]

The term *existing uses* means those uses actually attained in the waterbody on or after November 28, 1975, whether or not they are included in the water quality standards.

[Note: The date November 28, 1975, is stated in the definition of this term in EPA's regulations. 40 C.F.R. § 131.3(e). This date applies to all waters of the United States; the reason that EPA uses this date has to do with the early implementation of the Clean Water Act of 1972 -- it was the effective date of the EPA rule implementing the section 402 NPDES permit program.]

The term *federal license or permit* means any license or permit granted by an agency of the Federal Government to conduct any activity which may result in any discharge into the waters of the United States.

The term *federal licensing or permitting agency* means any agency of the Federal Government to which application is made for a license or permit.

The term *geometric mean* means the Nth root of the product of N numbers.

The term *hazardous substance* means any substance designated under 40 CFR part 116 pursuant to section 311 of the CWA.

The term *irrigation cell* means a natural or manmade wetland into which surface water runoff may be diverted. Water from an irrigation cell may be reused, stored or discharged into a water resource area.

The term *mixing zone* means a limited area or volume of water where initial dilution of a discharge takes place and where numeric water quality criteria can be exceeded but acutely toxic conditions are prevented from occurring. A mixing zone defines the location where a discharge, which may exceed numeric limits, can mix with water of higher quality so that dilution can occur.

The term *National Pollutant Discharge Elimination System (NPDES)* means the national

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Approved by USEPA on 11/19/98

program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the CWA.

The term *navigable waters* means the waters of the United States.

The term *nonpoint source* means any source of pollutants into Reservation surface waters other than a point source.

The term *Outstanding National Resource Waters (ONRW)* means high-quality or ecologically unique waters, such as those within the jurisdiction of National and State parks and wildlife refuges including swamps or hot springs. The primary intent of establishing ONRWs is to protect waters having special environmental, cultural or recreational attributes.

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The term *owner or operator* means the owner or operator of any "facility or activity" subject to regulation under the NPDES program.

The term *pH* means the negative logarithm of the effective hydrogen-ion concentration. Used to express acidity (values less than 7) and alkalinity (values greater than 7).

The term *person* means an individual, association, partnership, corporation, municipality, tribal, state or federal agency, or an agent or employee thereof.

The term *point source* means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff. (See 40 C.F.R. § 122.3).

The term *pollutant* means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. This term does not mean (A) "sewage from vessels" within the meaning of Section 312 of the Act; or (B) water, gas or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well is used either to facilitate production or for disposal purposes, has been approved under authority of the federal Safe Drinking Water Act or other applicable federal law, and if such Commission determines that such injection or disposal will not result in the degradation of ground or surface water resources.

The term *pollution* means the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

The term *publicly owned treatment works ("POTW")* means any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a state, tribe or municipality. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

The term *Reservation surface waters* means "Waters of the United States" that are located within the boundaries of the Tribe's Reservations specified in Section 11.2 of this Chapter. This term specifically includes wetlands.

The term *Section 304(a) criteria* means criteria that are developed by EPA under authority of

section 304(a) of the Act based on the latest scientific information on the relationship that the effect of a constituent concentration has on a particular aquatic species and/or human health. This information is issued periodically to the states and tribes as guidance for use in developing criteria.

The term *toxic pollutant* means any pollutant listed as toxic under section 307(a)(1) of the Act or, in the case of "sludge use or disposal practices," any pollutant identified in regulations implementing section 405(d) of the CWA.

The term *water resource area* means a feature that has been designed as a component of the Tribe's Water Conservation System Conceptual Plan on the Big Cypress Reservation for the dual purposes of: (1) removal/assimilation of nutrients, especially phosphorus, in water that has been used for agricultural purposes; and (2) storage of water for agricultural uses.

[Note: As of the date of these proposed Rules, no water resource area yet exists on the Big Cypress Reservation. It is not known whether the first of these planned water resource areas will be in operation before the first triennial review of these Rules, assuming that takes place in 1999. Nevertheless, in the development of these Rules the Commission has assumed that the Tribe's planned Water Conservation System eventually will be implemented.]

The term *water quality limited segment* means any segment of a body of water where it is known that water quality does not meet applicable water quality standards and/or is not expected to meet applicable water quality standards, even after the application of the technology-based effluent limitations required by sections 301(b) and 306 of the Act.

The term *water quality management (WQM) plan* means a tribal waste treatment management plan developed and updated in accordance with the provision of sections 205(j), 208 and 303 of the Act and Part 14 of the Tribal Water Code.

The term *water quality standards (WQS)* means provisions of tribal, state or federal law which consist of a designated use or uses for the waters of the United States and water quality criteria for such waters based upon such uses. Water quality standards are to protect the public health or welfare, enhance the quality of water and serve the purposes of the Act.

The term *waters of the United States or waters of the U.S.* means:

- (a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of tide;
- (b) All interstate waters, including interstate "wetlands;"
- (c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams),

mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadow, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

- (1) Which are or could be used by interstate or foreign travelers for recreational or other purposes;
- (2) From which fish or shellfish are or could be taken and sold interstate or in foreign commerce; or
- (3) Which are used or could be used for industrial purposes by industries in interstate commerce;
- (d) All impoundments of waters otherwise defined as waters of the United States under this definition;
- (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition;
- (f) The territorial seas; and
- (g) "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

The term *wetlands* means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

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Part 12. Water Quality Standards for Surface Waters

Section 12.1 Scope of This Part

Section 12.2 Designated Uses

- (a) Use Classifications.*
- (b) Classification of Reservation Surface Waters.*
- (c) Change in Classification of Surface Waters.*

Section 12.3 Water Quality Criteria

- (a) Narrative Standards for All Reservation Surface Waters.*
- (b) Additional Narrative Criteria for Class 2-A Waters.*
- (c) Numeric Criteria for all Reservation Surface Waters.*

Section 12.4 Review and Revision of Standards

Section 12.5 Antidegradation Policy

Section 12.6 Methods and Procedures

Section 12.7 Mixing Zone Policy

Section 12.8 Variance Policy

[Authority: This Part is based on Subtitle B of the Tribal Water Code and the Clean Water Act, and will take effect on the Brighton Reservation upon approval by the Tribal Council. This Part was adopted by the Tribal Council for the Big Cypress Reservation on September 13, 1996.]

Section 12.1 Scope of This Part

This Part of the Commission's rules establishes water quality standards for all Reservation surface waters specified in Section 11.2 of the preceding Chapter.

Section 12.2 Designated Uses

The Tribal Water Quality Code directs the Commission to establish designated uses for all water bodies within the Tribe's Reservations. The first step in establishing designated uses is to establish classes of uses. The second step is to apply the classification system by assigning each water body a designated use. The Commission may decide to divide a body of water into segments and assign different use classifications to different segments.

- (a) Use Classifications.*

(1) Classes. The Commission has classified all Reservation surface waters according to the following designated uses:

Class 1. Potable water supply.

Class 2. Protection, propagation and harvesting of fish and wildlife; maintenance of a well-balanced population of fish and wildlife; recreation in and on the water. Class 2 waters are further classified according to the sub-classes listed in paragraph (2) below.

Class 3. Agricultural purposes.

(2) Sub-Classes. Class 2 waters are further classified according to the following sub-classes:

Sub-Class 2-A. Cultural and Religious Significance. Protection of specific waterbodies that are important for ceremonial and religious uses (as these terms are defined in Section 11.5 of this Chapter).

Sub-Class 2-B. General Purpose Class 2.

Protection, propagation and harvesting of fish and wildlife; maintenance of a well-balanced population of fish and wildlife; recreation in and on the water.

Sub-Class 2-C. Artificial Conveyances; Water Resource Areas, Irrigation Cells and Pasture Runoff Collection and Transportation.

Protection, propagation and harvesting of fish and wildlife that are tolerant of nutrients and other pollutants.

(3) Inclusive Nature of Designated Use Classes. Classification of a waterbody for a particular designated use does not mean that the waterbody may not be used for other purposes as well. Water quality classifications are arranged in order of the degree of protection required, with Class 1 generally having the most stringent water quality criteria and Class 3 the least stringent. For any waterbody designated Class 3, the Tribe will be required to conduct a use attainability analysis (UAA) pursuant to 40 CFR 131.10 (j). Water quality criteria that apply to a class of surface waters are designed to maintain the minimum conditions necessary to assure that a waterbody is suitable for its designated use, and these criteria are generally adequate to maintain the conditions required for designated uses of less stringently regulated classifications. Therefore, designated uses of less stringently regulated classifications are generally deemed to be included in the designated uses of more stringently regulated classifications. For example, a waterbody designated Class 2 may be used as a source of supply for agricultural purposes.

(b) Classification of Reservation Surface Waters.

Except as otherwise provided in this section, all Reservation surface waters on the Big Cypress and Brighton Reservations are designated Class 2-B. All canals managed by the South Florida Water Management District are also expressly designated Class 2-B, unless specifically designated Class 2-C below. Exceptions to the general designation of surface waters as Class 2-B follow:

(1) Class 2-A -- Cultural or Religious Waters. The following specifically identified waters are designated Class 2-A waters:

Big Cypress Reservation

[No waters have been so designated at this time. When such waters are designated, appropriate baseline conditions shall be established.]

Brighton Reservation

[No waters have been so designated at this time. When such waters are designated, appropriate baseline conditions shall be established.]

(2) Class 2-C -- Artificial Conveyances and pasture runoff collection and transportation. All wholly artificial (man-made) canals and ditches that convey surface water from lands (including farms, pastures and citrus groves) to canals that are managed by the South Florida Water Management District are designated Class 2-C waters, except for any artificial ditches or canals that are specifically listed below as Class 3. This designation applies whether such canals or ditches discharge directly into the District's canals or whether they discharge into a component of the Tribe's surface water system for that Reservation. The following artificial conveyances on the Reservation are designated Class 2-C:

Big Cypress Reservation

- Water control system W-1
- Water control system W-2
- Water control system W-3
- Water control system W-4
- Water control system W-5
- Water control system W-6
- Water control system E-1
- Water control system E-2
- Water control system E-3
- Water control system E-4
- Water control system E-5
- Water control system E-6

Brighton Reservation

A Group -Ditch A-1

- Ditch A-2
- Ditch A-3
- Ditch A-4
- Ditch A-5
- Ditch A-6

B Group -Ditch B-1

- Ditch B-2
- Ditch B-3
- Ditch B-4
- Ditch B-5
- Ditch B-6
- Ditch B-7
- Ditch B-8
- Ditch B-9
- Ditch B-10

C Group -Ditch C-1
 -Ditch C-2

D Group -Ditch D-2
 -Ditch D-3
 -Ditch D-4
 -Ditch D-5
 -Ditch D-6
 -Ditch D-7
 -Ditch D-8
 -Ditch D-9
 -Ditch D-10
 -Ditch D-11 (Tannerhill Meanderline Ditch)

E Group -Ditch E-1
 -Ditch E-2

Mose Canal
Old Harney Pond Oxbow (from Russ & Sunni's to the

Triangle)

Hwy 721 community drainage ditch

(3) Class 2-C -- Water Resource Areas and Irrigation Cells.

Big Cypress Reservation

Water resource areas and irrigation cells (defined in Section 11.5 and components of the Tribe's Water Conservation System Conceptual Plan for the Big Cypress Reservation) are designated Class 2-C. Additionally, isolated wetlands that are not components of the Conceptual Plan are also designated Class 2-C.

Brighton Reservation

Not Applicable

(4) Class 3 -- Agricultural Purposes. The following wholly artificial (man-made) canals, pits or ditches are designated as Class 3 waters:

Big Cypress and Brighton Reservations

-Borrow pits
-Livestock watering ponds
-Field ditches

- Rim ditches
- Spreader swales
- Highway swales

(c) *Change in Classification of Surface Waters.*

(1) Any person who is subject to these rules may seek reclassification of Reservation surface waters by filing a petition with the Commission. The Department may develop a form for use in any such petition. Any petition for reclassification shall be accompanied by the information necessary for the Commission to make the affirmative finding described in paragraph (3) below.

(2) The Commission will consider any petition for reclassification at a regularly scheduled meeting of the Commission. The Commission may decide not to take any action in response to a petition. If it determines that there is merit in a petition, the Commission may decide to initiate changes to its rules. The Commission may not reclassify water(s) based only on a petition, but, rather, to reclassify water(s) the Commission must comply with the procedural requirements of the Tribal Water Quality Code and the provisions of the Clean Water Act. To initiate such changes, the Commission may direct the Department to incorporate the proposed reclassification in the next triennial review of the Tribe's water quality standards, pursuant to section 12.4 below, or the Commission may ask the Department to prepare proposed amendments to its rules to address only those issues raised in the petition. In any case in which the proposed rule changes affect only one of the Tribe's Reservations, a community meeting need be held on only that Reservation.

(3) In addition to receiving petitions from the affected public, the Commission, at any time, may act on its own initiative, or on the recommendation of the Director, to amend its rules to reclassify certain waters.

(4) Before initiating a rule change to reclassify water(s), the Commission must make a determination that the proposed reclassification: (a) would establish the most beneficial use of the particular water(s); (b) would serve the interests of the Tribe and the affected Reservation community; (c) would be attainable; (d) would ensure attainment and maintenance of the water quality standards of downstream waterbodies, and; (e) in situations where a designated use is being replaced with a use supported by less stringent criteria, adheres to the conditions set forth in 40 CFR ' 131.10 (g) and (h). Further, in reclassifying water(s), the Commission will include any existing uses not previously recognized in the list of designated uses.

SECTION 12.3 WATER QUALITY CRITERIA

(a) *Narrative Standards for All Reservation Surface Waters.*

All Reservation surface waters, including those within mixing zones, shall be free from substances attributable to wastewater discharges or other pollutant sources that:

- (1) Settle to form objectionable deposits;
- (2) Float as debris, scum, oil, or other matter forming nuisances;
- (3) Produce objectionable color, odor, taste, or turbidity;
- (4) Cause injury to, or are chronically toxic to, or produce adverse physiological responses in humans, wildlife, plants or fish and other aquatic life; or

- (5) *Are unsuitable for aquatic life propagation and maintenance and, where attainable, support balanced indigenous populations of aquatic life.*

(b) Additional Narrative Criteria for Class 2-A Waters.

In addition to the narrative criteria set forth in paragraph (a) above and the numeric criteria for Class 2-B waters found in Table 12, all Reservation surface waters designated Class 2-A shall be free from activities and substances attributable to wastewater discharges or other pollutant sources that:

- (1) *Disturb, injure or in any way jeopardize the continued existence of the unique diverse plant and wildlife used in the religious ceremonies and customs of the Tribe; or*
- (2) *Impair the biological community as it naturally occurs in the designated area due to physical, chemical or hydrologic changes.*

(c) Numeric Criteria for all Reservation Surface Waters.

The Commission has determined that the interests of the Tribe would be adequately served by adopting numeric criteria based on criteria that have been adopted by the State of Florida with guidance by EPA. The State of Florida has adopted numeric criteria for 72 pollutant parameters, which are set out in a table in section 62-302.530 of the Florida Administrative Code. The Commission finds that these criteria, which have been approved by EPA, are based on defensible scientific methodologies and are (in most instances) based on federal guidelines. The Department has prepared Table 12 (immediately following this paragraph) which sets out numeric criteria for pollutant parameters based primarily on these criteria. Except as otherwise specifically provided in these rules or in the notes accompanying Table 12, the Commission hereby approves these numeric criteria as applicable to Reservation surface waters for the corresponding classes of designated uses.

TABLE 12
Criteria for all Reservation Surface Waters on the
Big Cypress and Brighton Reservations

PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB-CLASS 2-A	SUB-CLASS 2-B	SUB-CLASS 2-C	
1. Alkalinity	mg/L as CaCO ₃	N	N	Shall not be depressed below 20	SEE SECTION 12.3 (A) & (B) OF THIS PART.	Shall not be depressed below 20		≤600
2. Aluminum	ug/L	N	N			≤87	≤87	
3. Ammonia (un-ionized)	mg/L as NH ₃	N	N	See EPA tables of ambient water quality criteria document for Ammonia, EPA 440/5-85-001 (pages 96-97).		See EPA tables of ambient water quality criteria document for Ammonia, EPA 440/5-85-001 (pages 96-97).		
4. Antimony	ug/L	Y	N	≤14.0		≤4,300	≤4,300	
5.a. Arsenic (total)	ug/L	Y	Y	≤50		≤50	≤50	≤50
5.b. Arsenic (trivalent)	ug/L measured as total recoverable Arsenic	Y	Y			#190	#190	
6. Bacteriological Quality (Fecal Coliform Bacteria)	Number per 100 ml (Most Probable Number (MPN) or Membrane Filter (MF))	N	N	MPN or MF counts shall not exceed a monthly average of 200, nor exceed 400 in 10% of the samples, nor exceed 800 on any one day. Monthly averages shall be expressed as geometric means based on a minimum of 5 samples taken over a 30 day period.	MPN or MF counts shall not exceed a monthly average of 200, nor exceed 400 in 10% of the samples, nor exceed 800 on any one day. Monthly averages shall be expressed as geometric means based on a minimum of 5 samples taken over a 30 day period.			

Notes: (1) "*PP" means priority pollutant; (2) "**C" means Carcinogen; (3) "Annual avg" means the maximum concentration at average annual flow conditions measured and represented as a 12 month moving average; (4) "Max" means the maximum not to be exceeded at any time; (5) "ln H" means the natural logarithm of total hardness expressed as milligrams/L of CaCO₃. For metals criteria involving equations with hardness, the hardness shall be set at 25 mg/L if actual hardness is <25 mg/L and set at 400 mg/L if actual hardness is >400 mg/L; (6) Criteria are protective of human health not of aquatic life.

TABLE 12
Criteria for all Reservation Surface Waters for Surface Water Quality Classifications (Continued)

PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB-CLASS 2-A	SUB-CLASS 2-B	SUB-CLASS 2-C	
7. Benzene	ug/L	Y	Y	#1.18		#71.28 annual avg.	#71.28 annual avg.	
8. Biological Integrity	Percent reduction of Shannon-Weaver Diversity Index	N	N	The Index for benthic macroinvertebrates shall not be reduced to less than 75% of background levels as measured using organisms retained by a U.S. Standard No. 30 sieve and collected and composited from a minimum of three Hester-Dendy type artificial substrate samplers of 0.10 to 0.15 m ² area each, incubated for a period of four weeks.	SEE SECTION 12.3 (A) & (B) OF THIS PART.	The Index for benthic macroinvertebrates shall not be reduced to less than 75% of background levels as measured using organisms retained by a U.S. Standard No. 30 sieve and collected and composited from a minimum of three Hester-Dendy type artificial substrate samplers of 0.10 to 0.15 m ² area each, incubated for a period of four weeks.		
9. BOD (Biochemical Oxygen Demand)	N/A	N	N	Shall not be increased to exceed values which would cause dissolved oxygen to be depressed below the limit established for each class and, in no case, shall it be great enough to produce nuisance conditions.		Shall not be increased to exceed values which would cause dissolved oxygen to be depressed below the limit established for each class and, in no case, shall it be great enough to produce nuisance conditions.		
10. Boron	mg/L	N	N					#0.75
11. Cadmium See Note (5)	ug/L	Y	N	$Cd \# \exp(0.7852[\ln H] - 3.49)$		$Cd \# \exp(0.7852[\ln H] - 3.49)$	$Cd \# \exp(0.7852[\ln H] - 3.49)$	$Cd \# \exp(0.7852[\ln H] - 3.49)$
12. Carbon tetrachloride	ug/L	Y	Y	#0.25 annual avg; 3.0 max		#4.42 annual avg.	#4.42 annual avg.	
13. Chlorides	mg/L	N	N	#250		≤230	≤230	

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TABLE 12
Criteria for all Reservation Surface Waters for Surface Water Quality Classifications (Continued)

PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB-CLASS 2-A	SUB-CLASS 2-B	SUB-CLASS 2-C	
					SEE SECTION 12.3 (A) & (B) OF THIS PART.			
14. Chlorine (total residual)	mg/L	N	N	#0.01		#0.01	#0.01	
15. a. Chromium (trivalent) See Note (5)	ug/L measured as total recoverable Chromium	Y	N	$Cr(III) \# \exp(0.819$ $[\ln H] + 1.561).$		$Cr(III) \# \exp(0.819$ $[\ln H] + 1.561).$	$Cr(III) \# \exp(0.819$ $[\ln H] + 1.561).$	$Cr(III) \# \exp(0.819$ $[\ln H] + 1.561).$
15. b. Chromium (hexavalent)	ug/L	Y	N	#11		#11	≤11	#11
16. Color, etc. (see also Minimum Criteria, Odor, Phenols, etc.)	Color, odor, and taste producing substances and other deleterious substances, including other chemical compounds attributable to domestic wastes, industrial wastes and other wastes.	N	N	Free from color, odor, and taste producing substances and other deleterious substances, including other chemical compounds attributable to domestic wastes, industrial wastes and other wastes.		Free from color, odor, and taste producing substances and other deleterious substances, including other chemical compounds attributable to domestic wastes, industrial wastes and other wastes.	Free from color, odor, and taste producing substances and other deleterious substances, including other chemical compounds attributable to domestic wastes, industrial wastes and other wastes.	Only such amounts as will not render the waters unsuitable for agricultural irrigation, livestock watering, industrial cooling, industrial process water supply purposes, or fish survival.
17. Conductance, Specific (at 25 degrees Celsius)	Micromhos/cm	N	N	Shall not be increased more than 50% above background or to 1275, whichever is greater.	SEE SECTION 12.3 (A) & (B) OF THIS PART.	Shall not be increased more than 50% above background or to 1275 whichever is greater.		Shall not be increased more than 50% above background or to 1275, whichever is greater
18. Copper See Note (5)	ug/L	Y	N	$Cu \#$ $\exp(0.8545[\ln H] - 1.465).$		$Cu \#$ $\exp(0.8545[\ln H] - 1.465).$	$Cu \#$ $\exp(0.8545[\ln H] - 1.465).$	#500

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TABLE 12
Criteria for all Reservation Surface Waters for Surface Water Quality Classifications (Continued)

PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB-CLASS 2-A	SUB-CLASS 2-B	SUB-CLASS 2-C	
19. Cyanide	ug/L	Y	N	#5.2		#5.2	#5.2	#5.2
20. Detergents	mg/L	N	N	#0.5		#0.5	#0.5	#0.5
21. 1,1-Dichloroethylene (1,1-Di-chloroethene)	ug/L	Y	Y	#0.057 annual avg.		#3.2 annual avg.	#3.2 annual avg.	
22. Dichloromethane (methylene chloride)	ug/L	Y	Y	#4.65 annual avg.		#1,580 annual avg.	#1,580 annual avg.	
23. 2,4-Dinitrotoluene	ug/L	N	Y	#0.11 annual avg.		#9.1 annual avg.	#9.1 annual avg.	
24. Dioxin (2,3,7,8 - TCDD)	ug/L	Y	Y	$\leq .000000014$		$\leq .000000014$	$\leq .000000014$	$\leq .000000014$
25. Dissolved Oxygen (DO)	mg/L	N	N	Shall not be less than 5.0. DO values can be lower if caused by natural conditions. Normal daily and seasonal fluctuations above these levels shall be maintained.	SEE SECTION 12.3 (A) & (B) OF THIS PART.	Shall not average less than 5.0 in a 24-hour period. DO values can be lower if caused by natural conditions. Normal daily and seasonal fluctuations above these levels shall be maintained.	Shall not average less than 5.0 in a 24-hour period. DO values can be lower if caused by natural conditions. Normal daily and seasonal fluctuations above these levels shall be maintained.	Shall not average less than 5.0 in a 24-hour period. DO values can be lower if caused by natural conditions. Normal daily and seasonal fluctuations above these levels shall be maintained.
26. Dissolved Solids	mg/L	N	N	#500 as a monthly avg.; #1,000 max.				
27. Fluorides	mg/L	N	N	#1.5		#10.0	#10.0	#10.0
28. "Free Froms" (see minimum criteria in section 12.3 of this Part)								
29. Halomethanes	ug/L	Y	Y					
30. a. Bromoform	ug/L	Y	Y	#4.3		#360	#360	
30. b. Chlorodibromomethane	ug/L	Y	Y	#0.41		#34	#34	

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TABLE 12
Criteria for all Reservation Surface Waters for Surface Water Quality Classifications (Continued)

PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB-CLASS 2-A	SUB-CLASS 2-B	SUB-CLASS 2-C	
					SEE SECTION 12.3 (A) & (B) OF THIS PART.			
30. c. Chloroform	ug/L	Y	Y	#5.7		#470	#470	
30. d. Dichlorobromomethane	ug/L	Y	Y	#0.27		#22	#22	
30. e. Methyl Bromide	ug/L	Y	Y	#48		#4000	#4000	
30. f. Dichlorodifluoromethane	ug/L	N	Y	#6900		#570000	#570000	
31. Hexachlorobutadiene	ug/L	Y	Y	#.44		#50	#50	
32. Imbalance (see Nutrients)								
33. Lead See Note (5)	ug/L	Y	N	$Pb \# \exp(1.273[\ln H] - 4.705)$		$Pb \# \exp(1.273[\ln H] - 4.705)$	$Pb \# \exp(1.273[\ln H] - 4.705)$	$Pb \# \exp(1.273[\ln H] - 4.705)$
34. Mercury	ug/L	Y	N	#0.012	SEE SECTION 12.3 (A) & (B) OF THIS PART.	#0.012	#0.012	#0.2

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TABLE 12
Criteria for all Reservation Surface Waters for Surface Water Quality Classifications (Continued)

PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB-CLASS 2-A	SUB-CLASS 2-B	SUB-CLASS 2-C	
35. Nickel See Note (5)	ug/L	Y	N	$Ni \# \exp(0.846[\ln H] + 1.1645)$.		$Ni \# \exp(0.846[\ln H] + 1.1645)$.	$Ni \# \exp(0.846[\ln H] + 1.1645)$.	#100
36. Nitrate	mg/L	N	N	#10		Shall not be found in concentrations which cause an imbalance in natural populations of aquatic flora or fauna.		
37. Nuisance Species	N/A	N	N	Substances in concentrations which result in the dominance of nuisance species: none shall be present.		Substances in concentrations which result in the dominance of nuisance species: none shall be present.		
38. (a) Nutrients	N/A	N	N	The discharge of nutrients shall continue to be limited as needed to prevent violations of other standards contained in this chapter or other applicable Water Quality Standards imposed by law.		The discharge of nutrients shall continue to be limited as needed to prevent violations of other standards contained in this chapter or other applicable Water Quality Standards imposed by law.		
38. (b) Nutrients	N/A	N	N	In no case shall nutrient concentrations of a body of water be altered so as to cause an imbalance in natural populations of aquatic flora or fauna.		In no case shall nutrient concentrations of a body of water be altered so as to cause an imbalance in natural populations of aquatic flora or fauna.		
39. (a) Oils and Greases	mg/L	N	N	Dissolved or emulsified oils and greases shall not exceed 5.0		Dissolved or emulsified oils and greases shall not exceed 5.0	Dissolved or emulsified oils and greases shall not exceed 5.0	Dissolved or emulsified oils and greases shall not exceed 5.0
39. (b) Oils and Greases	mg/L	N	N	No undissolved oil, or visible oil defined as iridescence, shall be present so as to cause taste or odor, or otherwise interfere with the beneficial use of Reservation waters.		No undissolved oil, or visible oil defined as iridescence, shall be present so as to cause taste or odor, or otherwise interfere with the beneficial use of Reservation waters.		

SEE SECTION 12.3 (A) & (B)
OF THIS

Notes: (1) "*PP" means priority pollutant; (2) "**C" means Carcinogen; (3) "Annual avg" means the maximum concentration at average annual flow conditions measured and represented as a 12 month moving average; (4) "Max" means the maximum not to be exceeded at any time; (5) "ln H" means the natural logarithm of total hardness expressed as milligrams/L of $CaCO_3$. For metals criteria involving equations with hardness, the hardness shall be set at 25 mg/L if actual hardness is <25 mg/L and set at 400 mg/L if actual hardness is >400 mg/L; (6) Criteria are protective of human health not of aquatic life.

TABLE 12
Criteria for all Reservation Surface Waters for Surface Water Quality Classifications (Continued)

PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB-CLASS 2-A	SUB-CLASS 2-B	SUB-CLASS 2-C	
40.h. Chlorpyrifos	ug/L	N	N	#.041		#.041	#.041	
40.i. Dichlorodiphenyltrichloroethane (DDT)	ug/L	Y	Y	#0.00059 annual avg.; 0.001 max.		#0.00059 annual avg. 0.001 max.	#0.00059 annual avg. 0.001 max.	
40.j. Demeton	ug/L	N	N	#0.1		#0.1	#0.1	
40.k. Dieldrin	ug/L	Y	Y	#0.00014 annual avg.; 0.0019 max.		#0.00014 annual avg.; 0.0019 max.	#0.00014 annual avg.; 0.0019 max.	
40.l. Diuron	ug/L	Y	Y	#2.0 annual avg.		#2.0 annual avg.	#2.0 annual avg.	
40.m. Endosulfan	ug/L	Y	N	#0.056		#0.056	#0.056	
40.n. Endrin	ug/L	Y	N	#0.0023		#0.0023	#0.0023	
40.o. Ethion	ug/L	Y	N	#60 annual avg.		#60 annual avg.	#60 annual avg.	
40.p. Guthion	ug/L	N	N	#0.01		#0.01	#0.01	
40.q. Heptachlor	ug/L	Y	Y	#0.00021 annual avg.		#0.00021 annual avg; 0.0038 max	#0.00021 annual avg; 0.0038 max	
40.r. Lindane (a-benzene hexachloride)	ug/L	Y	N	#0.0039 annual avg.		#0.013 annual avg.	#0.013 annual avg.	
40.s. Lindane (b-benzene hexachloride)	ug/L	Y	N	#0.014 annual avg.		#0.046 annual avg.	#0.046 annual avg.	
					SEE SECTION 12.3 (A) & (B) OF THIS PART.			

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TABLE 12
Criteria for all Reservation Surface Waters for Surface Water Quality Classifications (Continued)

PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB-CLASS 2-A	SUB-CLASS 2-B	SUB-CLASS 2-C	
40.t. Lindane (g-benzene hexachloride)	ug/L	Y	N	#0.019 annual avg.		#0.063 annual avg.	#0.063 annual avg.	
40.u. Malathion	ug/L	N	N	#0.1		#0.1	#0.1	
40.v. Methoxychlor	ug/L	N	N	#0.03		#0.03	#0.03	
40.w. Mirex	ug/L	N	N	#0.001		#0.001	#0.001	
40.x. Parathion	ug/L	N	N	#0.04		#0.04	#0.04	
40.y. Toxaphene	ug/L	Y	Y	#0.0002		#0.0002	#0.0002	
41. pH	Standard Units	N	N	Shall not vary more than one unit above or below natural background provided that the pH is not lowered to less than 6 units or raised above 8.5 units. If natural background is less than 6 units, the pH shall not vary below natural background or vary more than one unit above natural background. If natural background is higher than 8.5 units, the pH shall not vary above natural background or vary more than one unit below background.		Shall not vary more than one unit above or below natural background provided that the pH is not lowered to less than 6 units or raised above 8.5 units. If natural background is less than 6 units, the pH shall not vary below natural background or vary more than one unit above natural background. If natural background is higher than 8.5 units, the pH shall not vary above natural background or vary more than one unit below background.		
41 a. Phenolic compounds: Total		Y	N	Phenolic compounds other than those produced by the natural decay of plant material, listed or unlisted, shall not taint the flesh of edible fish or shellfish or produce objectionable taste or odor in a drinking water supply.	SEE SECTION 12.3 (A) & (B) OF THIS PART.	Phenolic compounds other than those produced by the natural decay of plant material, listed or unlisted, shall not taint the flesh of edible fish or shellfish or produce objectionable taste or odor in a drinking water supply.		

Notes: (1) "*PP" means priority pollutant; (2) "**C" means Carcinogen; (3) "Annual avg" means the maximum concentration at average annual flow conditions measured and represented as a 12 month moving average; (4) "Max" means the maximum not to be exceeded at any time; (5) "ln H" means the natural logarithm of total hardness expressed as milligrams/L of CaCO₃. For metals criteria involving equations with hardness, the hardness shall be set at 25 mg/L if actual hardness is <25 mg/L and set at 400 mg/L if actual hardness is >400 mg/L; (6) Criteria are protective of human health not of aquatic life.

TABLE 12
Criteria for all Reservation Surface Waters for Surface Water Quality Classifications (Continued)

PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB-CLASS 2-A	SUB-CLASS 2-B	SUB-CLASS 2-C	
41. b. Phenolic compounds: Total	ug/L	Y	N	1. The total of all chlorinated phenols, and chlorinated cresols, except as set forth in (c) 1. to (c) 8. below, shall not exceed 1.0 unless higher values are shown not to be chronically toxic. Such higher values shall be approved in writing by the Commission. 2. The compounds listed in (c) 1. to (c) 8. below shall not exceed the limits specified for each compound.	SEE SECTION 12.3 (A) & (B) OF THIS PART.	1. The total of all chlorinated phenols, and chlorinated cresols, except as set forth in (c) 1. to (c) 8. below, shall not exceed 1.0 unless higher values are shown not to be chronically toxic. Such higher values shall be approved in writing by the Commission. 2. The compounds listed in (c) 1. to (c) 8. below shall not exceed the limits specified for each compound.		
41. c.1. Phenolic compound: 2-chlorophenol	ug/L	Y	N	# 120		#400 See Note (6)	#400 See Note (6)	#400 See Note (6)
41. c.2. Phenolic compound: 2,4-dichlorophenol	ug/L	Y	N	#93 See Note (6)		#790 See Note (6)	#790 See Note (6)	#790 See Note (6)
41. c.3 Phenolic compound: 2,4-dimethylphenol	ug/L	Y	N	#540 See Note (6)		#2300 See Note (6)	#2300 See Note (6)	#2300 See Note (6)
41. c.4 Phenolic compound: 2-methyl-4,6-dinitrophenol	ug/L	Y	N	#13.4 See Note (6)		#765 See Note (6)	#765 See Note (6)	#765 See Note (6)
41. c.5 Phenolic compound: pentachlorophenol	ug/L	Y	N	#30 max; #0.28 annual avg; #e(1.005[pH]-5.29)		#30 max; #8.2 annual avg; #e(1.005[pH]-5.29)	#30 max; #8.2 annual avg; #e(1.005[pH]-5.29)	#30 max; #8.2 annual avg; #e(1.005[pH]-5.29)
41. c.6 Phenolic compound: 2,4,6-trichlorophenol	ug/L	Y	N	#2.1 annual avg.		#6.5 annual avg.	#6.5 annual avg.	#6.5 annual avg.
41. c.7 Phenolic compound: 2,4-dinitrophenol	mg/L	Y	N	#0.0697 See Note (6)		#14.26 See Note (6)	#14.26 See Note (6)	#14.26 See Note (6)
41. c.8 Phenolic compound: Phenol	mg/L	Y	N	#0.3	#0.3	#0.3	#0.3	
43. Phthalate Esters	ug/L	Y	N					
43. a. Bis(2-Ethylhexyl) Phthalate	ug/L	Y	N	#1.8 See Note (6)	#5.9 See Note (6)	#5.9 See Note (6)		

Notes: (1) "*PP" means priority pollutant; (2) "**C" means Carcinogen; (3) "Annual avg" means the maximum concentration at average annual flow conditions measured and represented as a 12 month moving average; (4) "Max" means the maximum not to be exceeded at any time; (5) "ln H" means the natural logarithm of total hardness expressed as milligrams/L of CaCO₃. For metals criteria involving equations with hardness, the hardness shall be set at 25 mg/L if actual hardness is <25 mg/L and set at 400 mg/L if actual hardness is >400 mg/L; (6) Criteria are protective of human health not of aquatic life.

TABLE 12
Criteria for all Reservation Surface Waters for Surface Water Quality Classifications (Continued)

PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB-CLASS 2-A	SUB-CLASS 2-B	SUB-CLASS 2-C	
43. b. Butylbenzyl Phthalate	ug/L	Y	N	#3000 See Note (6)		#5200 See Note (6)	#5200 See Note (6)	

Notes: (1) "*PP" means priority pollutant; (2) "**C" means Carcinogen; (3) "Annual avg" means the maximum concentration at average annual flow conditions measured and represented as a 12 month moving average; (4) "Max" means the maximum not to be exceeded at any time; (5) "ln H" means the natural logarithm of total hardness expressed as milligrams/L of CaCO_3 . For metals criteria involving equations with hardness, the hardness shall be set at 25 mg/L if actual hardness is <25 mg/L and set at 400 mg/L if actual hardness is >400 mg/L; (6) Criteria are protective of human health not of aquatic life.

TABLE 12
Criteria for all Reservation Surface Waters for Surface Water Quality Classifications (Continued)

43. c. Diethyl Phthalate	ug/L	Y	N	#23000 See Note (6)	SEE SECTION 12.3 (A) & (B) OF THIS PART.	#120000 See Note (6)	#120000 See Note (6)	
43. d. Dimethyl Phthalate	ug/L	Y	N	#313000 See Note (6)		#290000 See Note (6)	#290000 See Note (6)	
43. e. Dibutyl Phthalate	ug/L	Y	N	#2700 See Note (6)		#12000 See Note (6)	#12000 See Note (6)	
44. Polychlorinated Biphenols (PCBs)	ug/L	Y	Y	#0.000044 annual avg.; 0.014 max		#0.000045 annual avg; 0.014 max	#0.000045 annual avg; 0.014 max	
45. Polycyclic Aromatic Hydrocarbons (PAHs)	ug/L	Y	Y					
45. a. Anthracene	ug/L	Y	Y	#9600 See Note (6)		#110000 See Note (6)	#110000 See Note (6)	
45. b. Benzo(a)Anthracene	ug/L	Y	Y	#.0028 See Note (6)		#.031 See Note (6)	#.031 See Note (6)	
45. c. Benzo(a)Pyrene	ug/L	Y	Y	#0.0028 See Note (6)		#.031 See Note (6)	#.031 See Note (6)	
45. d. Chrysene	ug/L	Y	Y	#0.0028 See Note (6)		#0.031 See Note (6)	#0.031 See Note (6)	
45. e. Dibenzo(a,h)Anthracene	ug/L	Y	Y	#0.0028 See Note (6)		#0.031 See Note (6)	#0.031 See Note (6)	
45. f. Fluoranthene	ug/L	Y	Y	#300 See Note (6)	SEE SECTION 12.3 (A) & (B) OF THIS PART.	#370 See Note (6)	#370 See Note (6)	
45. g. Fluorene	ug/L	Y	Y	#1300 See Note (6)		#14000 See Note (6)	#14000 See Note (6)	
45. h. Indeno(1,2,3-cd) Pyrene	ug/L	Y	Y	#0.0028 See Note (6)		#0.031 See Note (6)	#0.031 See Note (6)	
45. i. Pyrene	ug/L	Y	Y	#960 See Note (6)		#11000 See Note (6)	#11000 See Note (6)	
45. j. Acenaphthene See Note (6)	ug/L	Y	Y	#1200 See Note (6)		#27000 See Note (6)	#27000 See Note (6)	
45. k. Benzo(k)Fluoranthene	ug/L	Y	Y	#0.0028		#0.031	#0.031	
45. l. 3,4 Benzo(b)Fluoranthene	ug/L	Y	Y	#0.0028		#0.031	#0.031	
46. Radioactive substances (Gross	Picocuries/L	N	Y	#15		#15	#15	#15

Notes: (1) "PP" means priority pollutant; (2) "C" means Carcinogen; (3) "Annual avg" means the maximum concentration at average annual flow conditions measured and represented as a 12 month moving average; (4) "Max" means the maximum not to be exceeded at any time; (5) "ln H" means the natural logarithm of total hardness expressed as milligrams/L of CaCO₃. For metals criteria involving equations with hardness, the hardness shall be set at 25 mg/L if actual hardness is <25 mg/L and set at 400 mg/L if actual hardness is >400 mg/L; (6) Criteria are protective of human health not of aquatic life.

TABLE 12
Criteria for all Reservation Surface Waters for Surface Water Quality Classifications (Continued)

alpha particle activity including radium 226, but excluding radon and uranium)								
47. Selenium	ug/L	Y	N	#5.0			#5.0	
48. Silver See Note (5) (applies within mixing zones)	ug/L	Y	N	$Ag \# \exp(1.72[\ln H] - 6.52)$			$Ag \# \exp(1.72[\ln H] - 6.52)$	$Ag \# \exp(1.72[\ln H] - 6.52)$
49. Substances in concentrations which injure, are chronically toxic to, or produce adverse physiological or behavioral response in humans, plants, or animals.	N/A	N	N	NONE SHALL BE PRESENT	SEE SECTION 12.3 (A) & (B) OF THIS PART.	NONE SHALL BE PRESENT		
50. 1,1,2,2-Tetra-chloroethane	ug/L	Y	Y	#0.17 annual avg.		#10.8 annual avg.	#10.8 annual avg.	
51. Tetrachloroethylene (1,1,2,2-) tetrachloroethene	ug/L	Y	Y	#0.8 annual avg. #3.0 max.		#8.85 annual avg.	#8.85 annual avg.	
52. Thallium	ug/L	Y	N	#1.7		#6.3	#6.3	
53. Thermal Criteria	F.	N	N	Heated water discharges shall not increase the temperature of the Receiving Body of Water (RBW) so as to cause substantial damage or harm to the aquatic life or vegetation therein or interfere with the beneficial uses assigned to the RBW. Heated water sources proposed for future discharges into an RBW shall not be more than 5 degrees F. higher than the existing temperature of any receiving water at a location which is unaffected by manmade thermal discharges and is of typical depth and exposure to winds and currents.	SEE SECTION 12.3 (A) & (B) OF THIS PART.	Heated water discharges shall not increase the temperature of the Receiving Body of Water (RBW) so as to cause substantial damage or harm to the aquatic life or vegetation therein or interfere with the beneficial uses assigned to the RBW. Heated water sources proposed for future discharges into an RBW shall not be more than 5 degrees F. higher than the existing temperature of any receiving water at a location which is unaffected by manmade thermal discharges and is of typical depth and exposure to winds and currents.		
54. Total Dissolved Gases	Percent of the saturation value for gases at the existing atmospheric and hydrostatic pressures.	N	N	#110% of saturation value		#110% of saturation value	#110% of saturation value	
55. Transparency	Depth of the compensation point for photosynthetic activity	N	N	Shall not be reduced by more than 10% as compared to natural background value.	SEE SECTION 12.3 (A) & (B) OF THIS PART.	Shall not be reduced by more than 10% as compared to natural background value.		
56. Trichloro-ethylene (Trichloro-ethane)	ug/L	Y	N	#2.7 annual avg. #3.0 max.		#80.7 annual avg.	#80.7 annual avg.	
57. Turbidity	Nephelometric Turbidity Units (NTU)	N	N	#29 above natural background conditions		#29 above natural background conditions	#29 above natural background conditions	#29 above natural background conditions
58. Zinc See Note (5)	ug/L	Y	N	$Zn \# \exp(0.8473[\ln H] + 0.7614)$		$Zn \# \exp(0.8473[\ln H] + 0.7614)$	$Zn \# \exp(0.8473[\ln H] + 0.7614)$	#1,000

Notes: (1) "*PP" means priority pollutant; (2) "***C" means Carcinogen; (3) "Annual avg" means the maximum concentration at average annual flow conditions measured and represented as a 12 month moving average; (4) "Max" means the maximum not to be exceeded at any time; (5) "ln H" means the natural logarithm of total hardness expressed as milligrams/L of $CaCO_3$. For metals criteria involving equations with hardness, the hardness shall be set at 25 mg/L if actual hardness is <25 mg/L and set at 400 mg/L if actual hardness is >400 mg/L; (6) Criteria are protective of human health not of aquatic life.

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Section 12.4 Review and Revision of Standards

The Department shall carry out a continuing planning process for water quality management, in accordance with the Tribal Water Quality Code, and shall make recommendations to the Commission for appropriate revisions to its rules. At least once every three years the Commission shall consider adopting revisions to its water quality standards and other provisions of its rules, following the procedural requirements set out in the Tribal Water Quality Code. All officially adopted revisions to tribal water quality standards shall be submitted to EPA for review and approval as required under 40 CFR Sections 131.20 and 131.21. Any person who is interested in receiving notices related to the review and revision of the Commission's rules should inform the Director of his or her interest (providing name and address), and, by so doing, they will be included in the "interested persons" list maintained by the Department.

Section 12.5 Antidegradation Policy

The Commission and the Department will carry out their responsibilities in accordance with the antidegradation policy set forth in section 131.12 of EPA's regulations. The Commission and the Department shall ensure that existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected. Where high quality waters constitute an outstanding National resource, such as waters of exceptional environmental, cultural or recreational significance, that water quality shall be maintained and protected. Where the quality of waters is better than necessary to support the propagation of fish, shellfish and wildlife and recreation in and on the water, that quality shall be maintained and protected unless the Commission and the Department finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the Department's continuing planning process, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation or lower water quality, the Commission and the Department shall assure adequate water quality to protect existing uses fully.

Section 12.6 Methods and Procedures

(a) Sample collections and preservation used to determine water quality and to maintain the standards set forth in the Water Quality Standards shall be performed in accordance with procedures prescribed by the latest EPA authoritative analytical reference, including but not limited to the latest editions of any of the following authorities: (1) American Public Health Association, Standard Methods for the Examination of Water and Wastewater; (2) "Methods for Chemical Analysis of Water and Wastes"; or (3) "EPA Guidelines Establishing Test Procedures for the Analysis of Pollutants."

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(b) Sampling Procedures:

1. Streams; Stream monitoring stations below waste discharges shall be located a sufficient distance downstream to ensure adequate vertical and lateral mixing.
2. Reservoirs and impoundments: Sampling stations in reservoirs shall be located at least 250 feet from a waste discharge, and otherwise, where the attainment of a water quality standard is to be assessed. Water quality measurements shall be taken at intervals in the water at a sampling station. For toxic substances and nutrients, the entire water column shall be monitored. For dissolved oxygen in stratified lakes, measurements shall be made in the epilimnion. In nonstratified lakes, measurements will be made at intervals throughout the entire water column.

(c) All methods of analysis used in measuring the water quality of surface water for purposes of determining compliance with these standards shall be in accordance with procedures prescribed in the current Title 40 Code of Federal Regulations Part 136.

(d) Bacteriological Surveys: The monthly geometric mean is used in assessing attainment of standards when a minimum of five samples is collected in a 30-day period. When less than 5 samples are collected in a 30-day period, no single sample shall exceed the applicable upper limit for bacterial density set forth in Table 12.

Section 12.7 Mixing Zone Policy

(a) Mixing zones permissible. A permit issued by the EPA pursuant to section 402 of the Clean Water Act for a point source discharge into Reservation surface waters may include mixing zones, provided that any such mixing zone is consistent with the policy stated in this section.

(b) General policy. This policy establishes how mixing and dilution of point source discharges with receiving waters will be addressed in developing chemical-specific and whole effluent toxicity discharge limitations. Depending upon site-specific mixing patterns and environmental concerns, some pollutants/criteria may be allowed to be exceeded in a mixing zone while others may not. In all cases, mixing zone and dilution allowances shall be limited as necessary to protect the integrity of the receiving water ecosystem and designated waterbody uses. This policy shall be implemented consistent with guidance issued by the EPA.

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(c) **Mixing zones.** Where dilution is available at critical conditions and the discharge does not mix at a near instantaneous and complete rate, an appropriate mixing zone may be designated if:

- (1) meeting water quality standards at the end-of-the-pipe is not practicable;
- (2) allowing a mixing zone will not pose unacceptable risks to designated or existing uses;
- (3) narrative criteria will be achieved within the mixing zone;
- (4) the size of mixing zones for streams, rivers and canals does not exceed one-half the cross-sectional area or a length 10 times the stream width at critical low flow, whichever is more limiting; and
- (5) the size of mixing zones for lakes does not exceed 5% of lake surface area or 200 feet in radius, whichever is more limiting.

(d) **Dilution allowances.** Where the discharge is to a river, stream or canal, dilution is available at critical conditions, and available information is sufficient to reasonably conclude that the discharge exhibits near instantaneous and complete mixing, an appropriate dilution allowance may be provided for purposes of establishing discharge limitations. As a maximum, the following low flows may be used:

Stream Flows

Aquatic life

chronic	4-day, 3-year flow (biologically based)
acute	1-day, 3-year flow (biologically based)

Human health

carcinogens	harmonic mean flow
non-carcinogens	4-day, 3-year flow (biologically based) or 1-day, 3-year flow (biologically based)

aquatic life,
propagation
and maintenance 12 month moving average

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Effluent Flows

Aquatic life, chronic Mean daily flow

Aquatic life, acute Maximum daily flow

Human Health (all) Mean daily flow

(e) Prohibition. Where dilution flow is not available at critical conditions, the discharge limits will be based on achieving water quality criteria at the end-of-the-pipe.

(f) Commission veto. If the Commission objects in writing to the inclusion of a mixing zone in any permit issued by the EPA for a point source discharge to Reservation surface waters, the permit shall not include a mixing zone.

Section 12.8 Variance Policy

(a) General Policy. In an appropriate case the Commission is authorized to grant a variance for a particular discharger. Granting a variance may be appropriate in any case in which one or more of the grounds specified in paragraph (d) below applies and the Commission determines that the water quality standard for the body of water ultimately can be attained. The procedure for granting a variance is essentially the same process as for adopting or revising water quality standards. If the Commission decides to grant a variance in a particular case, the terms of the variance will be specified as an appendix to this section of the Commission's Rules.

(b) Effect of a Variance; Expiration. The effect of a variance is to make it legally permissible for that discharger to fail to comply with otherwise applicable water quality criteria for one or more pollutant constituents. The discharger who is granted a variance for one or more pollutant constituents is required to comply with all applicable water quality criteria for all pollutant constituents not expressly included in the variance. A variance is limited to a particular discharger; all other dischargers are subject to all applicable water quality criteria. In any case in which the Commission decides to grant a variance, the Commission will specify a date on which the variance will expire, which may be set to coincide with the next scheduled triennial review of the Commission's Water Quality Standards Rules. The time period for a variance shall not exceed three (3) years, although a variance may be rejustified upon expiration.

(c) Procedure. A petition or application for a variance shall be in accordance with these rules. The Petitioner or Applicant shall address the factors listed in paragraphs (1) through (7) below in a request to the Commission, which shall review the petition within a reasonable period of time to determine if it is complete. If the Commission determines the petition or application to be incomplete, the Petitioner shall be afforded an opportunity to supply additional information before the Commission evaluates the

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merits of the request. The following must be included within the request:

- (1) The criterion or criteria from which a variance is sought.
- (2) The facts which show that a variance should be granted because of one of the reasons specified in Section 12.8 (d), below.
- (3) The period of time for which the variance is sought, including the reasons and facts in support of the time period.
- (4) The requirements which the Petitioner or Applicant can meet, including the date or time when the requirements will be met.
- (5) The steps or measures the Petitioner or Applicant is taking to meet the requirements from which the variance is sought.
- (6) The social, economic and environmental impacts on the Applicant and residents of the area if the variance is granted.
- (7) The social, economic and environmental impacts on the Applicant and residents of the area if the variance is denied.

The Commission shall publish Notice of Intent in the Seminole Tribune or other news media as the Tribal Chairman may direct and posting in accordance with Paragraph 3.5.5.1 of Subtitle A. In addition, Notice of Intent shall be provided to all individuals listed on the "Interested Persons" list as described in Section 12.3.2 of the Tribal Water Code. The Commission shall not grant a variance or petition for variance until a minimum of thirty (30) days following the publication of notice to provide an opportunity for public comment. A Public Hearing need not be held unless specifically requested during the public comment period. With the exception of the Public Hearing requirement (if not requested) the same procedures set forth in Section 12.3.2 of the Tribal Water Code for the development of rules shall be followed in granting a variance, including adoption by the Tribal Council and EPA review and approval.

(d) Grounds for Granting a Variance. The Commission may grant a variance if one or more of the following grounds exists:

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- (1) Naturally occurring pollutant concentrations prevent the attainment of one or more water quality criterion;
- (2) Natural, ephemeral, intermittent or low flow conditions or water levels prevent the attainment of one or more water quality criterion, unless these conditions may be compensated for by the discharge of sufficient volume of the effluent discharges to enable the criterion (or criteria) to be met, without violating tribal water conservation requirements;
- (3) Human caused conditions or sources of pollution prevent the attainment of one or more criterion and such conditions cannot be remedied or would cause more environmental damage to correct than to leave in place;
- (4) Dams, diversions or other types of hydrologic modifications preclude the attainment of one or more criterion, and it is not feasible to restore the waterbody to its original condition or to operate such modification in a way that would result in the attainment of the criterion (or criteria);
- (5) Physical conditions related to the natural features of the waterbody, such as the lack of a proper substrate, cover, flow, depth, pools, and the like, unrelated to water quality, preclude the attainment of aquatic life protection criteria; or
- (6) Controls more stringent than those required by sections 301(b) and 306 of the Act would result in substantial and widespread economic and social impact.

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